

October 7, 2015

BY ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Connect America Fund, WC Docket No. 10-90

Dear Ms. Dortch:

FairPoint Communications, Inc. (“FairPoint”), by its undersigned counsel, hereby seeks clarification of the Commission’s intention concerning the transition from Connect America Fund (“CAF”) Phase I to CAF Phase II.

The transition from CAF Phase I to CAF Phase II will significantly impact the price cap carriers’ financial, operating and reporting requirements under the Commission’s rules. In order to ensure that price cap carriers’ revenue requirement, rates, and support are correctly calculated, to ensure that carriers can comply with the CAF broadband build-out obligations, and to ensure that carriers can comply with CAF-related reporting obligations, FairPoint urges the Commission, through the Wireline Competition Bureau, to clarify that CAF Phase II effectively began on January 1, 2015. Providing this clarification would confirm that transitional support received retroactive to January 1st is considered CAF Phase II support, and carriers are expected in 2015 to satisfy the performance obligations that adhere under CAF Phase II rather than the CAF Phase I frozen support obligations.

As the Commission is aware, FairPoint subsidiaries operate as incumbent local exchange carriers (“ILECs”) in 16 states. In 3 states, FairPoint ILECs are price cap carriers, and in the remaining 13 states, FairPoint ILECs are rate-of-return regulated but treated as price cap carriers for CAF purposes. For CAF Phase II, FairPoint has accepted model-based support in 14 out of 16 states. Eleven of those are states where the FairPoint ILEC is a rate-of-return carrier. (See enclosed materials for a list of all states.)

Under the *USF-ICC Transformation Order* and Section 51.917 of the Commission’s rules, amounts previously received by rate-of-return carriers as local switching support (“LSS”) became part of the 2011 Interstate Switched Access Revenue Requirement and thus part of the 2011 Rate-of-Return Carrier Base Period Revenue. 47 C.F.R. §51.917(b)(7). Under the Commission’s rule governing “eligible recovery for

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rate-of-return carriers,” 47 C.F.R. §51.917(d), the FairPoint rate-of-return ILECs are entitled to receive those amounts through the mechanisms set forth in Sections 51.917(e) and (f) of the Commission’s rules, 47 C.F.R. §51.917(e), (f).

On December 18, 2014, the Commission released its final rules for CAF Phase II, including rules governing price cap carriers’ transition from CAF Phase I frozen support to Phase II model-based support. *Connect America Fund*, WC Docket No. 10-90, Report & Order, 29 FCC Rcd 15644, 15677-79 (2014). Nothing in that order, nor in subsequent Commission orders, appears to have modified Sections 51.917(d) through (f) of the Commission’s rules in any respect.

FairPoint therefore confirms that, as the Commission implements the transition from CAF Phase I frozen support to CAF Phase II model-based support, the FairPoint rate-of-return ILECs that have accepted CAF Phase II model-based support will continue to receive their eligible recovery through the mechanisms specified in the rules cited above.

FairPoint hereby seeks clarification that the effective period of CAF Phase I ended on December 31, 2014, and CAF Phase II was effective as of January 1, 2015, with revenue calculations and support payments to be adjusted consistent with that time frame, and in accordance with the Commission’s transition rules for CAF Phase II.

Due to the complexity of calculating the rate-of-return carrier eligible recovery, FairPoint urgently requests that the Bureau provide this clarification at the earliest possible opportunity. The enclosed materials provided additional background concerning this matter. Please direct any questions concerning this filing to me.

Very truly yours,

Karen Brinkmann
Counsel for FairPoint

Enclosure

cc: Matt DelNero
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